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ANNUAL REPORT

Provincial Land Commission

April 1, 1973 March 31, 1974

(The Land Commission was officially established by the Proclamation of Section 2 of the Act on May 18th, 1973.)

W. T. Lane, Chairman
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Historical Background

The adoption of the Land Commission Act can be conceived as but one response to a continent-wide concern for wastefulness in the use of the land resource. The chairman of the United States Senate Committee on Interior and Insular Affairs, Senator Henry M. Jackson of Washington State, described the problem facing state governments as follows:

> "In my judgment, it is evident from the Committee's most recent hearings on S. 268 that a strong consensus has developed concerning both the Federal role in national land use policy and the best means of improving the mechanics and processes employed in state land use planning and management...
>
> This so-called "quiet revolution" in State land use law is a consequence of well-documented deficiencies in America's land development system. It behooves the Congree to move quickly toward enactment of legislation to provide financial assistance and technical support for further State initiatives."

In the resultant Senate Bill S268 entitled the "Land Use Policy and Planning Assistance Act of 1973" the Congress is stated to have found:

> "the increased size, scale, and impact of private actions, have created a situation in which land use management decisions of wide public concern often are being made on the basis of expediency, tradition, short-term economic considerations, and other factors which too frequently are unrelated or contradictory to sound environmental, economic, and social land use considerations."

Bosselman and Callies, in a report prepared for the United States Federal Council on Environmental Quality, attribute one reason for the trend toward shared decision making to the fact "the entire pattern of land development has been controlled by thousands of individual local governments, each seeking to maximize its tax base and minimize its social problems, and caring less what happens to all the others."

The realities of the land comprising British Columbia were recently summarized by the political scientist Martin Robin:

"The geography of British Columbia, which historically relegated farming to a supplementary rather than primary component of the economic system, has severely restricted the development of extensive cultivation, checked the growth of a large rural population, and hindered the emergence of a broadly shared rural consciousness. British Columbia is a sea of mountains covering 250,000,000 acres, approximately 5% of which is arable. The principal farmland is made up of scattered islands of about 10,000 acres nestled between mountain ranges and extending principally from the Delta area east to the [Upper Elk Valley in the Kootenays] , and from the head of the Nass Valley,where Alaska touches B. C., east to the Peace River country. The farm districts within these broad areas, as well the pockets of agriculture found outside them, are variegated and unrelated. The entire Cordilleran region is physically irregular, consisting of broken geological strata with great variations in soil and climate."

In a review of the Land Commission Act for the Canadian Council on Urban and Regional Research, David Baxter states:

"The loss of agricultural land to urban uses is a national and worldwide phenomenon. In many areas concern is mounting over the rate, pattern and effects of the conversion of agricultural land to urban use. Several factors which influenced the decision to establish a land preservation programme in British Columbia by means of a Land Commission are discussed below.

1. Food production

There is, and has been for many years, a world shortage of protein and other foodstuffs...Currently, the province is highly dependent on food production in other parts of the world to meet local demand. In 1946, food consumption in the province required a net import of 3%. By 1955, this deficit had risen to 29% and remains above this level. Dependence on external food producers could pose several long run problems for the province. It will be highly vulnerable should external political, economic market competition, or physical factors cause a reduction in the reliability or availability of imported agricultural products, or drastically raise their prices. As well, a large increase in food prices and shortages of essential foods have already been forecast for Canada in 1974.

2. Land availability

In terms of farmland as a percentage of total area or acres of farmland per capita, British Columbia is one of Canada's have-not provinces. The extent of the province's farming and grazing lands are outlined on Map 1. Only 4% of the province's land is considered to be arable (3% west of the Rocky Mountains). Only ½% is considered to be Class One in terms of suitability for agriculture and .01% has a soil climate combination suitable for growing grapes and tree fruits. Yet on this land, less than 2% of Canada's farm

> area produce 5% of the total value of agricultural products and earn 4 - 5% of the cash receipts from farming operations in Canada...
>
> It has further been estimated that in the Lower Fraser Valley an additional 3,000 acres of farmland are lost each year to hobby farmers and country estates which are, in the main, neither viable nor used for productive agricultural activity... According to some estimates, approximately 20% of the Lower Fraser Valley and 30% of the Okanagan Valley's agricultural land has been lost to non-agricultural uses."

While serious in isolation, they become ominous when viewed in a world context. Perhaps the most disturbing statistic of the many which could be used to illustrate the point is the allegation that the net population gain in the world has now reached 7,000,000 persons per month. To give this some perspective, it means that all of the battle fatalities in the whole of the Second World War, among the bloodiest of all human conflicts, are replaced every two months across the world.

Significantly, Mexico, one of the most important suppliers of food stuffs for Canada is experiencing a dramatic population increase. Mexico City is already three times the size of Montreal, and the state of California, one of the more important sources of foodstuffs for Canada, is losing agricultural land at the rate of more than 300,000 acres per year. By 1984 there may well be one billion people in the Western Hemisphere, 300,000,000 of them in the United States.

The effect of this population increase is compounded by growing affluence and with it a demand for food in some very crowded parts of the world, notably Japan and Western Europe. Thus considered, the need to protect those portions of our countryside with agricultural potential looms even more urgent. North America with 6% of the world's population already consumes 30% of its annual production of resources of all sorts. Over the last 20 years world population has been going up at over 2.8% annually.

Since the passing of British Columbia's Land Commission Act the Province of Ontario adopted a statute with largely parallel objectives; The Ontario Planning and Development Act, 1973. Representatives from the provinces of Quebec, Alberta and Prince Edward Island have visited the Land Commission office in order to gather information for possible legislative changes in those jurisdictions. It would appear that the trend toward shared land use regulation is well under way in Canada and the United States.

Summary of the Act

It is perhaps best to think of the Act having as its objectives four major and quite distinctive things.

First, the preservation of agricultural land for farm use; That is to say the occupation or use of agricultural land for bonafide farm purposes as well as certain other uses which are compatible with the preservation of land for farm use closely related to this is the encouragement of and preservation of family farming and family farms. A second major objective is to preserve green belt lands in and around urban areas and to encourage the establishment on land in green belt reserves only uses compatible with the preservation of these lands as greenbelt. Also, there is the objective of the preservation of certain land bank lands having desirable qualities for urban or industrial development with the object of restricting the subdivision and use of such lands for incompatible purposes. Conversely the Commission is asked to encourage the establishment on land bank reserve lands of uses compatible with the ultimate use of the land for industrial and urban development. Finally, there is a park land role established for the Land Commission. It is asked to preserve park land for recreational use and to encourage the establishment of land in a park land reserve for any use compatible with the ultimate use of land for recreational purposes.

At first glance these four objectives of the Land Commission Act seem to be roughly equivalent activities of the Commission. However, only in the case of agricultural land is the Commission given any zoning or regulatory powers. In other words, only in the case of land actually designated as Agricultural Land Reserve are there any restrictions on the private use of private lands for purposes incompatible with farming or agriculture. Indeed, the Agriculture Reserve lands are so designated only after a process involving public hearings held by the various regional districts, a review by the Land Commission and finally, a reconsideration and ultimate approval by the Cabinet. Not until then are such lands considered "designated" and only then are the rights of the private owners in any way affected by the Agricultural Reserve classification. This regulatory power is to be found in section 10 subsection (1) of the Land Commission Act:

> "No person shall occupy or use agricultural land designated as an agricultural land reserve pursuant to section 8 for any purpose other than farm use, except as permitted by this act or the regulations or by order of the Commission upon such terms and conditions as the Commission may impose."

There is no similar provision with respect to green belt land, land bank land or park land reserves. Indeed, while the agricultural lands become part of the agriculture land reserve after designation, following the steps mentioned above, green belt, land bank, and park lands become part of a reserve only after the Land Commission has acquired the property either from the Crown or by purchase or gift from private citizens. There is no regulatory power involved in so far as the latter three reserves are concerned.

Lots of less than two acres in size, in existence on the 21st of December, 1972, and recognized on a Certificate of Titles issued by a Land Registry Office are not bound by the provisions of the Land Commission Act, even if the land is within an Agricultural Reserve. Furthermore, any non-conforming use which has been in existence for at least six months prior to the 21st of December, 1972, and not otherwise against the law will be allowed to continue as a non-conforming use in an Agricultural Land Reserve. The exemption does not apply if the use is changed to another non-farming use without the prior approval of the Commission. Also, if the owner wishes to sell, lease or otherwise transfer a non-conforming use, he must get permission of the Land Commission prior to such sale, lease or transfer. The Land Commission, at its discretion may impose conditions upon the sale, lease or transfer. Its decision is final except on questions of law or excess of jurisdiction which may always be taken to the Supreme Court of British Columbia.

Section 9 of the Land Commission Act makes ample provision for the exclusion of land which may have originally been placed in the Agricultural Land Reserve. A municipality, regional district, the Commission, or indeed the Cabinet may request the Lieutenant-Governor in Council to exclude land from the Agricultural Reserve. It is hoped that in any of these events ample warnings will be given and an exchange of views canvassed prior to such an exclusion.

Private owners of land may apply directly to the Commission through the Regional District offices to have land excluded from an Agricultural Land Reserve. If, however, the land had been zoned for agricultural or farm use prior to December 21, 1972, a resolution of the municipality or regional district in question is needed before the aggrieved owner may pursue his appeal for exclusion to the Land Commission. If the aggrieved owner, in fact, appeals to the Land Commission and is unhappy about the decision of the Commission with respect to the proposed exclusion of land from an Agricultural Reserve, the owner may further appeal to the Environment and Land Use Committee of Cabinet. He may do this only if the municipality or regional district in question has authorized the further appeal and if given leave to appeal by at least two member of the Land Commission.

The objects of the Act are to protect the agricultural resource in the long haul, hence, short-term economic or technological consideration must be given relatively little weight in evaluating whether a given parcel of land should be included or excluded from the Agricultural Land Reserve. The Canada Land Inventory classifications of agricultural capability are based on soils qualities and certain climatic conditions. These give rise to an increasing number of options for the producer as you proceed from class 4 land through the 3's and 2's and down to the very best quality land in the class 1's. It would seem these options must be kept in mind rather than the short term economic possibilites which may arise from time to time in connection with the land, particularly in regard to locations near urban areas.

The Administration of the Act

A major object of the British Columbia Land Commission Act is "the preservation of agricultural land for farm use". The statute provided for the "designation" of Agricultural Land Reserves by the Commission after a process involving public hearings held by the various Regional District Boards, a review by the Land Commission itself and the ultimate approval of the Reserve Plans by the Lieutenant-Governor in Council. The practical effect of final "designation" is to limit the use of lands in the Reserve to farm uses and to a wide variety of uses compatible with the long-haul capability of the land to produce agricultural products. Most aspects of forestry and many recreation uses would fall within the permitted uses. The test is whether or not the proposed use irreversibly affects the agricultural productivity of the land.

In a Province the area of which is one and one-half times that of France, the identification of all land with agricultural potential, within the short time constraints of the Land Commission Act, necessitated as it was by the quickening pace of alienation of farm land for urban purposes, would have posed an insurmountable problem had it not been for the existence of the Canada/B.C. Land Inventory. It conceived of a classification system based on groupings of land with common soil-climate combinations, offering a descending number of options to the producer.

To aid the Regional Districts in the design of their Agricultural Land Reserve plans, staff members of the Department of Agriculture prepared suggested reserve plans showing not only present and potential farm land but also those areas of good quality land already substantially urbanized. Equal areas of non-farm land which could possibly be used for urban expansion, as well as certain conservation areas (such as creek beds) were shown on the departmental maps to provide guidance for communities adjusting to growth in the context of an ajacent Agricultural Reserve.

In adopting a "zoning" approach to land use control, the Legislature, had, in effect, raised the number of people in the Province subject to this type of regulation from the perhaps 85% of the population covered by locally initiated by-laws to a few more percentage points accounted for by those covered by the provincially approved Agricultural Land Reserve.

To assist the Regional Districts to explain the Act to the general public, a twenty-minute long slide-tape program was prepared for the Commission by the Media Centre at the University of British Columbia. Kits were sent to each Regional District office and it is believed that the presentation was shown at more than 200 information meetings held to publicize the various Regional District Agricultural Reserve Plans.

The Chairman and two or more members of the Commission visited twenty-four of the Regional Districts personally to explain to board and staff members the policies and procedures involved in implementing the Act. In addition a one-day seminar for Chairmen and Chief Administrative Officers of the Regional District Boards was held in August 1973.

Regional District Boards were given significant financial assistance to enable them to carry out their extensive responsibilites under the Act. The diligence of Board members and their staffs is noted with gratitude by the Commission.

The sequence of preparation through to designation of Agricultural Reserve Plans is shown on Table A.

Although the Commission's time in the first year of its existence was largely taken up with work connected with the establishment of the Agricultural Land Reserves, a start was made on some of its other duties.

A Greenbelt Land purchase was recommended to the Environment and Land Use Committee of the Cabinet which resulted in the acquisition of land in the Christmas Hill - Swan Lake complex in Saanich (7½ acres in 18 parcels).

Two farms and a ranch were purchased pursuant to the Farm land acquisition capability of the Commission. These included two farms in Delta Municipality of 100 acres and 95 acres respectively. It is noted that between them they contained 7,250 feet of waterfront on Boundary Bay. In addition, a 2,058 acre ranch on Big Sheep Creek near Trail was acquired. This property also has significant conservation potential.

In addition to duties under the Land Commission Act, the Commission acted (effective, November, 1973) as an appellate body under the Environment and Land Use Act Order-in-Council No. 157/73. In this regard more than 1,000 appeals were dealt with.

The Commission engaged Allen Bernholtz Consultants to make a pilot study of growth alternatives in the Kelowna region using LOKAT computer techniques for analysis and visual display of the alternatives. The basic purpose was to compare the likely pattern of growth in Kelowna if (a) consumption of good agricultural land were permitted, and (b) if it were <u>not</u> permitted. The focus was the enlarged City of Kelowna but land on both sides of the lake was included to permit alternatives to be developed in the Central Okanagan Regional District.

A second purpose in arranging for this pilot study was to find out whether computer printouts would help people to "see" these alternatives to urban sprawl in a far more clear way than ever before. Using population projections of the Okanagan Basin Water Study, a number of computer-generated maps was produced. Each simulation was based on different sets of assumptions (e.g. no restrictions, retention in agriculture of Classes 1 to 4, protection of wildlife winter range, increased densities in selected portions of the existing city). The simulations resulted in highly informative development patterns.

Most striking was the revelation that if the population tripled and only 30 percent of the existing housing stock was replaced at higher densities, <u>none</u> of the Class 1 to 4 agricultural land need be consumed. The Commission now intends to prepare a slide/map package illustrating the Bernholtz study believing that it is excellent educational material which can be well used by other communities.

TABLE "A" AGRICULTURAL LAND RESERVE PLANS PROGRESS REPORT 31 March 1974

REGIONAL DISTRICT	Date Received by Land Commission	First Review	Final Review	Sent to Cabinet	Received from Cabinet	Designation by Land Commission	Distribution
Alberni-Clayoquot	6.11.73	11.12.73	8.1.74	24.1.74	16.4.74	18.4.74	24.4.74
Bulkley Nechako	3.12.73	29.1.74					
Capital	24.11.73	27.2.74	29.3.74	9.4.74			
Cariboo	28.2.74						
Central Fraser Valley	6.11.73	11.12.73	8.1.74	24.1.74	19.4.74	24.4.74	29.4.74
Central Kootenay	10.1.74	17.4.74					
Central Okanagan	6.12.73	21.2.74	29.3.74	5.4.74			
Columbia Shuswap	26.2.74						
Comox Strathcona	24.11.73	17.1.74	25.1.74	31.1.74			
Cowichan Valley	23.11.73	20.12.73	17.1.74	31.1.74			
Dewdney Alouette	30.10.73	11.12.73	8.1.74	24.1.74	19.4.74	24.4.74	25.4.74
East Kootenay	13.3.74						
Fraser Cheam	28.2.74						
Fraser-Fort George	7.1.74	2.4.74	18.4.74				
Greater Vancouver	25.10.73	8.11.73	10.12.73	24.1.74			
Kitimat Stikine	24.4.74						
Kootenay Boundary	22.2.74	17.4.74	24.4.74				
Mount Waddington	--- C.L.I. Inventory in process ---						
Nanaimo	18.12.73	27.2.74	21.3.74	5.4.74			
North Okanagan	4.10.73	26.10.73	19.11.73	12.12.73	11.3.74	15.3.74	15.3.74
Ocean Falls	--- C.L.I. Inventory in process ---						
Okanagan Similkameen	27.9.73	12.10.73	29.10.73	2.11.73	31.1.74	13.2.74	14.2.74
Peace River-Liard	3.12.73	30.1.74	20.2.74	3.3.74			
Powell River							
Skeena-Queen Charlotte	--- C.L.I. Inventory in process ---						
Squamish Lillooet	1.11.73	18.12.73	20.2.74	22.2.74			
Sunshine Coast	6.11.73	20.12.73	8.1.74	31.1.74	3.4.74	3.4.74	8.4.74
Thompson Nicola	23.11.73	2.4.74	18.4.74				